UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

INTERNATIONAL MUFFLER COMPANY, d/b/a MAREMONT EXHAUST PRODUCTS,)
Plaintiff,)
v.) No. 3:07-cv-123) (Phillips/Guyton)
INTERNATIONAL ASSOCIATION OF)
MACHINISTS AND AEROSPACE WORKERS,	j
AFL-CIO DISTRICT LODGE NO. 711 AND)
LOCAL LODGE NO. 2545,)
)
Defendants.)

ORDER

On January 30, 2008, plaintiff filed a notice of dismissal without prejudice [Doc. 25], attempting to dismiss this case voluntarily pursuant to Federal Rule of Civil Procedure 41(a)91). That rule provides: "[T]he plaintiff may dismiss an action without a court order by filing ... a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." Because the defendants filed an answer [Doc. 23] prior to plaintiff's attempted voluntarily dismissal, plaintiff may not dismiss this action without a court order.

The defendants, however, have failed to respond to plaintiff's notice of dismissal without prejudice. Accordingly, this court will grant plaintiff's request for dismissal under Rule 42(a)(2) of the Federal Rules of Civil Procedure. It is hereby **ORDERED** that the action is **DISMISSED** without prejudice as to refiling.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge